

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DARIUS HOWARD,

Plaintiff,

-against-

CITY OF ROCHESTER,
JONATHAN LAUREANO,
COUNTY OF MONROE, and
DARREN PILATO,

Defendants.

**DECLARATION IN SUPPORT OF
MOTION FOR AN UNSEALING
ORDER**

Case No.: 23-cv-6561 (FPG) (MJP)

CLYDE RASTETTER, an attorney duly admitted to practice law before the courts of the State of New York and the United States District Court for the Western District of New York, hereby declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am a member of Kopke Christiana & Rastetter LLP, one of the attorneys of record for the Plaintiff, Darius Howard (“Plaintiff” or “Mr. Howard”), in the above matter. Accordingly, I am fully familiar with the facts and circumstances in conjunction therewith, and I make this Declaration in support of Plaintiff’s motion for an order unsealing the complete contents of the file related to Plaintiff Darius Howard’s underlying criminal prosecution, *People v. Darius Howard*, Ind. No. 2016-154 (Sup Ct, Monroe County).

2. By way of background, Plaintiff asserts causes of action pursuant to 42 U.S.C. § 1983 here for, among other things, malicious prosecution and denial of his right to a fair trial, all relating to his arrest on September 21, 2015 and subsequent prosecution under indictment number 2016-154, which Plaintiff alleges resulted in his years-long wrongful conviction. *See*

generally Compl., ECF No. 1. In essence, this case arises out of the same facts and incident that gave rise to Plaintiff's criminal prosecution.

3. During discovery in this matter, on May 1, 2024, Plaintiff propounded Rule 34 requests to Defendants County of Monroe ("the County") and City of Rochester ("the City") requesting, among other things, a complete copy of all records related to Plaintiff's criminal prosecution, since these materials are highly relevant to the causes of action asserted herein. Defendants have indicated that an unsealing order must be entered before they will produce these records, since portions of the file are sealed pursuant to N.Y. CRIM. PROC. LAW § 160.50.

4. Annexed hereto as **Exhibit 1** are duly notarized releases executed by Mr. Howard pursuant to N.Y. CRIM. PROC. LAW § 160.50(1)(d), which authorize the release of all sealed records related to his arrest on September 21, 2015 and prosecution under indictment number 2016-154 to counsel for all parties to this case.

5. Annexed hereto as **Exhibit 2** is a proposed Order directing the unsealing of the complete contents of the file *People v. Darius Howard*, Ind. No. 2016-154 on a partial basis to be used solely to prosecute or defend claims in this matter or the related matter of *Owens v. County of Monroe*, 21-cv-06445 (FPG) (MWP) (W.D.N.Y.) and pursuant to the existing protective orders in place in each case.

Dated: Brooklyn, New York
September 30, 2024

Respectfully submitted,
KOPKE CHRISTIANA & RASTETTER LLP

By: /s/Clyde Rastetter
Clyde Rastetter
199 Cook Street, Suite 308
Brooklyn, NY 11206
t: (917) 451-9525
e: clyde@kcrllp.com